IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 357 of 2003
in
SPECIAL CIVIL APPLICATIONNo 9216 of 2001
With
CIVIL APPLICATION NO. 2104 of 2003

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

GANPATBHAI H. JHIGOLA

Appearance:

1. LETTERS PATENT APPEAL No. 357 of 2003
MR HARDIK C RAWAL for Appellant.
MR PH PATHAK for Respondent.

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE K.A.PUJ

Date of decision: 02/05/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

The appellant has questioned the judgment and award dated 9.3.2000 passed by the Labour Court, Surat in Reference No. 153 of 1995 by filing Special Civil Application No. 9216 of 2001. The learned Single Judge, upon appreciation and evaluation of the facts and circumstances, and the relevant proposition of law, rejected the petition by judgment and order dated 18.3.2002. That is how the original-petitioner, Gujarat State Road Transport Corporation (GSRTC), appellant before us, has challenged the award of the Labour Court which came to be subsequently confirmed by the learned Single Judge.

2. After having heard strenuous submissions made by learned advocate, Mr. Raval, and considering the text, tenor and texture of the award as well as the judgment of the learned Single Judge, and relevant proposition of law, we are satisfied that the award of the Labour Court, which came to be confirmed by the learned Single Judge, is quite justified warranting no interference in exercise of our powers under Clause 15 of the Letters Patent. The reason for absence and that too on the health ground, ordinarily, should not entail extreme penalty of dismissal from the service, which is a well-expounded proposition of law. The appellant authority, after holding departmental inquiry, dismissed the respondent-Conductor who later on sought the rescue from the Labour Court, and Labour Court by its award quashed the dismissal order while allowing the Reference and directed 40% of the backwages from the date of Reference. In view of the nature and type of the delinquency proved, the order of the Labour Court, crystallized in the award and confirmed by the learned Single Judge, in the facts and circumstances, should not be said to be, in any way, unjust, unreasonable or vulnerable, and even from the point of proportionality of punishment it cannot be questioned, as the Labour Court has only directed 40% of the backwages in award. We, therefore, find no substance in this Letters Patent Appeal. The Letters Patent Appeal shall stand dismissed accordingly.

3. Before parting, we would like to observe that the appellant Corporation shall deposit or pay-up the amount due and payable under the award, which came to be confirmed by this Court, and which is now affirmed by us,

within a period of three months from today, failing which it will be open for the respondent to move appropriately before appropriate forum.

4. The Civil Application No. 2104 of 2003, in view of dismissal of Letters Patent Appeal, would stand rejected.

rmr. [J.N. Bhatt, Actg. C.J.]

[K.A. Puj, J.]